

## **REMARKS**

Applicants thank the Examiner for the courtesies extended during the interview on September 19, 2007.

Claims 1-6, 8-17, 19 and 20 are pending in the present application including independent claims 1 and 14. The claims are generally directed to a flow-through assay device for detecting the presence or quantity of an analyte residing in a test sample. As now amended, all of the presently pending claims require that the capture reagent in the compensation zone be configured to bind to conjugated detection probes and complexes formed between the analyte and the conjugated detection probes. Support for this amendment can be found at least in Para. [0040] of the present application.

In the Office Action, claim 1 was rejected under 35 U.S.C. §112, second paragraph, as being indefinite. Without commenting on the propriety of this rejection, claim 1 has now been amended and it is respectfully requested that the §112 rejection be withdrawn.

Claims 1-3, 5, 6, 12-15, 17 and 20 are rejected under 35 U.S.C. § 102(e) as being unpatentable over U.S. Patent Application No. 2006/0008921 to Daniels et al. as evidenced by U.S. Patent No. 6,121,008 to Fitzpatrick. However, as now amended, all of the presently pending claims require that the capture reagent in the compensation zone be configured to bind to conjugated detection probes and complexes formed between the analyte and the conjugated detection probes. The cited references do not teach or suggest this limitation.

Daniels et al. describe a control region (so-called compensation zone) wherein a control ligand is configured to bind conjugated detection probes, particularly those remaining unbound to the analyte. Para. [0184]. In the case of competitive binding assays, the control agent will comprise the first target moiety of the analyte of interest as well as fragments and analogs thereof. Para. [0185]. However, nowhere does Daniels et al. teach or suggest a capture reagent in the compensation zone that is configured to bind to conjugated detection probes and complexes formed between the analyte and the conjugated detection probes. In the present application, the second capture reagent serve as a stationary binding site for any conjugated detection probes

and analyte/conjugated probe complexes that do not bind to the first capture reagent at the detection zone. Para. [0040] of the present application. In some embodiments, the second capture reagent is a biological capture reagent while in some embodiments, the second capture reagent can include a polyelectrolyte. As such, it is respectfully submitted that the presently pending claims patentably define over the cited references.

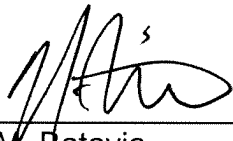
Applicants respectfully submit that the present application is in complete condition for allowance and favorable action, therefore, is respectfully requested. Examiner Diramio is invited and encouraged to telephone the undersigned, however, should any issues remain after consideration of this Response.

Please charge any additional fees required by this Response to Deposit Account No. 04-1403.

Respectfully requested,

DORITY & MANNING, P.A.

10/1/2007  
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